

REMARKS

Claims 1-13 and 16-27 are pending in this application.

Claims 12, 13, 16-18, and 20-22 have been amended to remove the means plus function language. Claim 12 has also been amended to incorporate the subject matter from claim 15; claim 15 has been canceled. Claim 14 has also been canceled. Claims 16 and 17 have also been amended to change their dependencies from claim 15 to claim 12. Claims 23-27 have been added, and correspond to claims 1, 4, and 9-11, respectively.

Claims 1-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,032,126 to Zalewski et al. (hereinafter "Zalewski '126") in view of U.S. Patent Application Publication No. 2005/0010529 to Zalewski et al. (hereinafter "Zalewski '529").

Zalewski '126 relates to a method and apparatus for creating a dynamic storage pool for data recovery (Abstract). Zalewski '126 utilizes two types of replication: mirrors for physical replication and snapshots for logical replication (column 2, lines 20-39). The replication policies are dynamic and adaptable, based on application server deployment (column 3, lines 21-29 and 36-45).

To recover data, a user of the method selects a recovery template based on "the type of disruption involved, physical, logical or combined" which permits the

user to select the source for data recovery (column 4, lines 9-13). Data recovery is performed only if a disruption occurs (column 5, lines 34-57).

Applicants respectfully disagree with the Examiner's characterization of Zalewski '126 as applied to the present application. First, the Examiner argues that Zalewski '126 teaches the step of selecting a location on which the snapshot is to be located. While Zalewski '126 permits a user to select a snapshot to be recovered (see e.g., column 5, lines 48-51), Zalewski '126 does not hint or suggest that the user can select a location on which the snapshot is to be loaded.

Second, the Examiner argues that Zalewski '126 teaches the step of creating a point in time (PIT) map for the selected snapshot. Zalewski '126 contains no discussion of PIT maps as the term is used in the present application. Zalewski '126 only discusses PIT copies in a general sense and does not describe any type of mapping.

Third, the Examiner argues that Zalewski '126 teaches the step of loading the selected snapshot at the selected location. As discussed above, Zalewski '126 does not teach selecting a location on which the snapshot is to be loaded, and therefore cannot teach the step of loading the selected snapshot at the selected location.

Because Zalewski '126 does not teach nor suggest three of the steps of claim 1, claim 1 is distinguishable over Zalewski '126.

Zalewski '529, like Zalewski '126, also fails to teach the steps of selecting a location on which the snapshot is to be located, creating a PIT map for the selected snapshot, and loading the selected snapshot at the selected location.

Claim 12 as amended includes a data protection system configured to select a logical unit for loading said selected snapshot. As discussed above in connection with claim 1, neither Zalewski '126 nor Zalewski '529 teach selecting a logical unit for loading a selected snapshot. Because this element is not taught by either Zalewski '126 or Zalewski '529, claim 12 is distinguishable over the cited references.

Because neither Zalewski '126 nor Zalewski '529 teach all of the features of the present application nor do the cited references contain a hint or suggestion relating to those features, a combination of Zalewski '126 and Zalewski '529 would not lead one skilled in the art to the invention recited in claims 1 and 12 of the present application.

New independent claim 23 is similar in scope to claim 1. New claim 23 is therefore distinguishable over Zalewski '126 and Zalewski '529 for the same reasons stated above in connection with claim 1.

Because the independent claims (i.e., claims 1, 12, and 23) are distinguishable over the cited references, the dependent claims (i.e., claims 2-11, 13, 16-22, and 24-27) are also distinguishable over the cited references without the need for additional comment.


Applicant: Stager et al.
Application No.: 10/772,017

It is respectfully submitted that the amendments and remarks made herein place pending claims 1-13 and 16-27 in condition for allowance. Accordingly, entry of this amendment as well as reconsideration and allowance of pending claims 1-13 and 16-27 are respectfully requested.

If the Examiner does not believe that the claims are in condition for allowance, the Examiner is respectfully requested to contact the undersigned at 215-568-6400. In the event that a subsequent Office Action will be issued, the undersigned respectfully requests a telephone interview with the Examiner prior to the issuance of the Office Action. An Applicant Initiated Interview Request is being submitted with this Reply.

Respectfully submitted,

Stager et al.

By 
Steven J. Gelman
Registration No. 41,034
(215) 568-6400

Volpe and Koenig, P.C.
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

SJG/mnr